



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2304552
Applicant Name: Edi Linardic for Rainier Commons, LLC
Address of Proposal: 3100 Airport Way S.

SUMMARY OF PROPOSED ACTION

Master Use Permit to change use of part of an existing light manufacturing use (Rainier Brewery) to 52 artist studio dwelling units (71,520 sq. ft.), 34,812 sq. ft. of administrative office (rehearsal studios), a 11,565 sq. ft. fine arts school, and to establish use for future construction of an 18,000 sq. ft. fine arts school, 120 accessory dormitory units and 62,452 sq. ft. of mini warehouse. Parking for 229 vehicles to be provided.

The following approvals are required:

Administrative Conditional Use - To allow an artist studio dwelling unit in an Industrial Commercial 45 (IC-45) zone. SMC 23.50.014.

SEPA – Environmental Determination - Section 25.05,
Seattle Municipal Code

SEPA DETERMINATION: [...] Exempt [] DNS [] MDNS [] EIS

[X] DNS with conditions

[] DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction

BACKGROUND DATA

Site and Vicinity Description

The proposal site consists of the buildings and grounds occupied by the former Rainier Brewery. The brewery was started at the site approximately 125 years ago. The existing 20 plus buildings were built over this time period. The site stretches approximately a quarter of a mile in the north/south direction, between Interstate Five ("I-5") and Airport Ave. S. About one-third of the overall site currently and will continue to be occupied by Tully's Coffee corporate headquarters, training, roasting, packaging and shipping operations. Uses in the surrounding area are commercial and industrial, consistent with the IG2 U/85 zoning in the area.

Airport Ave. S. is an arterial carrying regional traffic. To the north and south of the site are streets which are not improved to city standards. An access road runs along the east edge of the site between the I-5 freeway structure and the site buildings.

Proposal Description

Approximately one third of the floor area in the buildings on the site are currently and will continue to be occupied by a light manufacturing use, a coffee roasting business, Tully's Coffee. The remainder of the existing buildings are proposed to change in use from brewery, light manufacturing use to a variety of new uses. Fifty-two artist studio dwelling units are proposed in 71,520 sq. ft. of space. Rehearsal and storage space for musicians is proposed in a combination of small rooms and associated rehearsal spaces to occupy 34,812 sq. ft. An additional 11,565 sq. ft. of existing building space is proposed to be occupied by a fine arts school the curriculum of which would influence and be influenced by the resident artists and visiting musicians. In addition, proposed for future construction is an additional 18,000 sq. ft. of fine arts school, 120 accessory dormitory units and 62,452 sq. ft. of mini warehouse. Parking for a total of 229 vehicles is proposed to be provided.

It is likely that this proposed project would be accomplished in three phases. The first phase would involve re-use of the existing building for artist studio dwelling units, the musicians' spaces and some of the educational spaces. Surface parking for 161 vehicles would exist in this first phase. In the second phase the mini-storage warehouse and parking garage structure would be built bringing the available on-site parking level up to 229. In the third phase no parking would be added and the large, multi-story, outdoor, existing fluid storage tanks at the south end of the site would be converted to dormitories atop a new college administration, lecture and art display space area.

Public Comment

The SEPA and Conditional Use comment period ran from March 31, 2004 to April 21, 2004. One comment letter was received expressing support for the artist studio dwelling units.

ANALYSIS – ADMINISTRATIVE CONDITIONAL USE

Sections 23.50.014A and B contain criteria for permitting artists studio/dwellings in industrial zones. The following includes each code section and an analysis of the project's relation to each:

All proposed conditional uses in industrial zones must conform to the following criteria in Section 23.50.014.A.

1. *The use shall be determined not to be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

The brewery buildings proposed to become Artist Studio Dwelling Units (“ASDUs”) are in portions of the site previously filled with tanks, pipes, pumps and other equipment used in the brewing process. The buildings were built over time and are comprised of many smaller rooms rather than very large spaces. Concrete walls, floors and ceilings create the rooms and also form much of the structure of the buildings. The windowless spaces are not easily used for modern day industrial uses. Access to most of them is very limited. The beer product was moved by pipes after its initial fermentation stage, moving from one room to another as necessary.

Reuse of the proposal site by artists seems very compatible with surrounding uses. Tully’s uses the northern buildings for offices and part of the larger brewery complex of buildings for coffee roasting. The freeway is located to the east. Airport Way S. is to the west. The portion of the site proposed for ASDUs is many hundreds of feet from the site boundaries to the north and south.

Reuse of the prominent buildings is more likely to be a benefit to other properties in the zone or vicinity than be a harmful influence. The building itself is a bit of a landmark in the area and keeping it in productive use would have positive impacts.

2. *The benefits to the public that would be provided by the use shall outweigh the negative impacts of the use.*

Negative impacts of the proposed ASDU uses are expected to be limited. The site is distant enough from surrounding properties that the activities of the artists are not expected to disturb or be disturbed by surrounding uses. Traffic and parking impacts can be expected. These will be analyzed below in the SEPA review section. They are expected to be of very limited scope. The proposed reuse of the Rainier Brewery site with ASDU, an arts school and rehearsal/storage space for musicians is viewed in much of our community with great excitement. It is expected to be a sizable asset in the arts community.

Every indication is that the proposed ASDUs and the larger community proposed at the former Rainier Brewery would greatly outweigh the expected negative impacts.

3. *Landscaping and screening, vehicular access controls and other measures shall insure the compatibility of the use with the surrounding area and mitigate adverse impacts.*

New street improvements to include curbs, sidewalks and street trees will mitigate impacts of the proposal by clarifying the pedestrian vs. automobile realms, and improve the appearance of the site from surrounding areas. Further measures are not warranted.

4. *The conditional use shall be denied if it is determined that the negative impacts cannot be mitigated satisfactorily.*

No identified impacts are expected to be insufficiently mitigated.

5. *In areas covered by the Council-adopted Neighborhood Plans which were adopted after 1983, uses shall be consistent with the recommendations of the plans.*

There exists within the Seattle Comprehensive Plan a Greater Duwamish Manufacturing/Industrial Center element. It contains goals and policies organized into five general categories, “Jobs and Economics,” Land Use, “Transportation,” “Utilities,” and “Public Safety.”

GD-P5 states “Limit the location or expansion of non-industrial uses, including publicly sponsored non-industrial uses...” GD-P13 states “Especially along the waterway, discourage conversion of industrial land to non-industrial uses. ASDUs are, at best, “quasi industrial” in nature in that the residents conduct all manner of creative efforts employing a wide range of materials and techniques.

GD-P3 states “Encourage new industrial businesses that offer family-wage jobs to locate in the area.” “Family wage jobs” seems to require not retail or lower level service jobs but jobs creating something of value allowing those employed therein to receive a reasonable wage. ASDUs are not a guarantee of reasonable payment for efforts expended, but, the opportunity is afforded in them for persons to live inexpensively in close proximity to their creative endeavors which can, depending on the particular artistic products created, return a reasonable wage. The proposed ASDUs are not inconsistent with this policy and can, in many cases, be expected to be consistent with it.

ASDUs have long been permitted by administrative conditional use in existing, older buildings in industrial zones in Seattle. The Greater Duwamish Manufacturing/Industrial Center element of the Comprehensive Plan could have been, but was not written and adopted with a provision to prohibit or specifically restrict ASDUs.

The ASDU uses proposed are consistent with the recommendations of the applicable Seattle Comprehensive Plan elements.

The following criteria in Section 23.50.014B.1 are also to be considered in this decision.

- a. *Artist's studio/dwellings shall generally be discouraged along arterials such as freeways, state routes and freight lines;*

The proposal site is adjacent to the I-5 freeway in a stretch where it is elevated on a concrete structure at the base of a bluff. There is a south bound off ramp from I-5 at S. Forest St. approximately 350 feet north of the proposal site. Complete access to the interstate can be had at S. Spokane St. approximately 900 feet south of the proposal site, although the onramps must be accessed while traveling eastbound on S. Spokane St., requiring vehicles leaving the site to drive a block west before heading south to make a left turn on S. Spokane St.

The purpose of criterion "a" is understood to discourage location of ASDUs where ready access to arterials such as freeways makes the site particularly suited for industrial or commercial activities. In fact the proposal site does have fairly ready access to the interstate highway system, but, it is by no means unique among south Seattle sites in this respect. In fact, because the major access to I-5 is for traffic traveling along S. Spokane St., it is properties along this arterial which have the best access to the interstate. Neither does Airport Way S., an arterial, provide ready access to the greater transportation system. Airport Way S. runs along the edge of the former shore with tidal mudflats to the west and its particularly strong function as an arterial route into the Downtown Core passing between the Chinatown/International District and the Pioneer Square District. It is not well connected to the Interstate System.

While the subject is located close to both an interstate freeway and an arterial street, it is not uniquely suited for industrial/commercial uses as compared to the Duwamish Industrial Area in general.

- b. *Artist's studio/dwellings shall not be allowed in areas where existing industrial uses may cause environmental or safety problems;*

The proposal site is isolated from surrounding uses by streets on three sides and by I-5 on the fourth. The area where ASDUs are proposed is further "protected" from surrounding uses by the building they are proposed to be in as well as by other buildings and open spaces on the proposal site. It seems unlikely that the proposed ASDUs will be affected by existing uses in the area.

- c. *Artist's studio/dwellings shall not be located where they may restrict or disrupt industrial activity;*

The fairly high degree of isolation of the proposed ASDUs, as noted above, would also allow them to exist without restricting or disrupting nearby industrial activities.

- d. *The nature of the artist's work shall be such that there is a genuine need for the space; and*

Planned at the proposal site is a genuine artist's community where all manner of artistic projects will be conceived, created and displayed. The large spaces envisioned to be constructed within the existing concrete, former tank rooms will allow all manner of activities. Large opening windows on the exterior walls will allow large objects and materials to be hoisted into the spaces. Every indication is that the proposed ASDUs will indeed be used for robust artistic endeavors genuinely making use of the unique, industrial-like spaces.

- e. *The owner(s) of a building seeking a conditional use for artist's studio/dwellings must sign and record a covenant and equitable servitude, on a form acceptable to the Director, that acknowledges that the owner(s) and occupants of the building accept the industrial character of the neighborhood and agree that existing or permitted industrial uses do not constitute a nuisance or other inappropriate or unlawful use of land. Such covenant and equitable servitude must state that it is binding on the owner(s) successors, heirs, and assigns, including any lessees of the artist's studio/dwellings.*

A signed and recorded covenant and equitable servitude will be a condition of MUP issuance

DECISION – CONDITIONAL USE

CONDITIONALLY APPROVED.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated September 23, 2003, and annotated by this Department. This information in the checklist, supplemental information provided by the applicant (an April 2004 traffic study, a July 2, 2004 parking study and an August 9, 2004 supplement to the parking study, all three prepared by Geralyn Reinart, P.E.), a communication from the Seattle Office of Urban Conservation, comments from members of the community, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) establishes the relationship between codes, policies, and environmental review. Specific policies for specific elements of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: “where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation (subject to some limitations).”

Under certain limitations/circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-Term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by construction activities; potential soil erosion and potential disturbance to subsurface soils during grading, excavation, and general site work; increased traffic and demand for parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; and consumption of renewable and non-renewable resources. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794). Although not significant, these impacts are adverse, and in some cases, mitigation is warranted.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically, these are: Stormwater, Grading and Drainage Control Code (grading, site excavation and control of soil erosion through use of best management practices); Street Use Ordinance (watering streets to suppress dust, removal of debris, and obstruction of the pedestrian right-of-way); Building Code (construction measures in general); laws and regulations enforced by the Puget Sound Clean Air Agency (asbestos and dust control during demolition) and the Noise Ordinance (construction noise). Compliance with these applicable codes and ordinances will reduce or eliminate short-term impacts to the environment and they will be sufficient without conditioning pursuant to SEPA policies.

Long-Term Impacts

Long-term or use related impacts are also anticipated from the proposal and include: increased surface water runoff from greater site coverage by impervious surfaces; potentially decreased water quality in surrounding watersheds; increased ambient noise due to increased human activity; increased demand on public services and utilities; increased light and glare; increased energy consumption; increased on-street parking demand and increased vehicle congestion. These long-term impacts are not considered significant because they are minor in scope.

Notwithstanding the determination of non-significance, the following impacts merit more detailed discussion.

Traffic

The traffic study submitted to DPD by Geralyn Reinart, P.E. for this project proposal and reviewed by DPD predicts very little project related impact to the six studied intersections in either the a.m. or p.m. peak hours. Based on the trip generation values established in the study, the project is expected to generate 2147 new daily trips, 224 of which would occur during the a.m. peak hour and 217 during the p.m. peak hour. The study states, however, that it is probable that many of the peak hour trips that are projected will actually occur during off-peak hours due to the nature of the intended uses and future tenants behavior choices. All of the project trips will initially impact Airport Way. That street is four lanes with a two-way left turn lane along the site frontage. The report further states that this street currently operates well below the capacity of a multi-lane street and can easily serve the additional traffic associated with full site development. It concludes that the traffic signal controlled intersections reviewed are all operating at an overall level of service "D" or better, and would continue to do so in the future, with or without the proposed project.

No traffic related SEPA policy based conditioning of traffic impacts is warranted.

Parking

The mix of different uses proposed the timing of creation of the uses in three phases and the somewhat unconventional nature of several of the uses made quantification of parking demand an unusually challenging exercise. Under the direction of the DPD Transportation Planner, an extensive Parking Impact Study was prepared by Geralyn Reinart, P.E., dated July 2, 2004, with additional information in response to DPD comments provided on August 9, 2004.

Conclusions reached with regard to supply and demand for on-site parking are that peak parking demands would exceed supply by four stalls in phase one and that supply would exceed demand by 100 stalls in phase two (when the parking garage is built) and by 56 in phase three. The expected parking spillover of parking during daily operations during phase one, at four vehicles, is minimal and would be expected to be accommodated on near-by streets.

No SEPA based conditioning of parking impacts is warranted.

Historic Preservation

The proposal site has many buildings on it. Those at the northern end include two old brick and one old wooden building which are the oldest on the site, which may have attributes sufficient to qualify them for City landmark status, but which are not affected in any way by the actions proposed in this application. These buildings are being used by Tully's Coffee Company currently and would continue to be so used for the foreseeable future. The large concrete buildings which are affected by this application are old enough to be referred to the Office of Urban Conservation for a preliminary determination of likelihood to meet landmark criteria. Instead of making a written referral in this case a tour of the site was conducted for the DPD Planner and the responsible Office of Urban Conservation staff member. After consultation within her office, Beth Chave sent DPD an email notification that they are not going to ask for a referral to them in this case as there are no exterior demolition of buildings proposed in this application.

DPD Director's Rule 2-98 establishes the US Government Meander Line as an important indicator of potential historic settlements along the former, unaltered shorelines of Seattle. The Rule provides that projects involving excavation within 200 feet of the Meander line shall take particular measures to look for and protect such historic resources should they be encountered during excavation.

The proposal would involve excavation incidental to building foundations for new buildings at the south end of its site, an area within 200 feet of the US Government Meander Line. Hence conditioning will be imposed as directed by DR 2-98. No further SEPA conditioning to limit historic or cultural impacts is warranted.

Other Impacts

Several adopted Codes and Ordinances and other agencies will appropriately mitigate the other use-related adverse impacts created by the proposal. Specifically, these are the Puget Sound Clean Air Agency (increased airborne emissions); and the Seattle Energy Code (long-term energy consumption).

The other impacts not noted here as mitigated by codes, ordinances, or conditions (increased ambient noise; increased pedestrian traffic; increased demand on public services and utilities) are not sufficiently adverse to warrant further mitigation by conditions.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

SEPA CONDITIONS

Prior to Issuance of Master Use Permits:

1. The owner and/or responsible parties shall provide DPD with a statement that the contract documents for their general, excavation, and other subcontractors will include reference to regulations regarding archaeological resources (Chapters 27.34, 26.53, 27.44, 79.01, and 79.90 RCW, and Chapter 25.48 WAC as applicable) and that construction crews will be required to comply with those regulations.

During Construction

2. File a Notice of Intent to Construct with the Puget Sound Clean Air Agency prior to demolition or construction.
3. If resources of potential archaeological significance are encountered during construction or excavation, the owner and/or responsible parties shall:
 - Stop work immediately and notify DPD (Scott Kemp, 206.233.3866) and the Washington State Archaeologist at the State Office of Archaeology and Historic Preservation (OAHP). The procedures outlined in Appendix A of Director's Rule 2-98 for assessment and/or protection of potentially significant archeological resources shall be followed.
 - Abide by all regulations pertaining to discovery and excavation of archaeological resources, including but not limited to Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25.48 WAC, as applicable, or their successors.

Prior to Occupancy of Phase I (reuse of existing buildings)

4. Construct street improvements as approved by DPD and SDOT and as shown on the issued MUP plans for areas north of phases two and three of the project proposal.

Prior to Occupancy of Phase II (construction of new buildings at south end of the site)

5. Construct street improvements as approved by DPD and SDOT and as shown on the issued MUP plans for areas adjacent to phases two and three of the project proposal.

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

Prior to Issuance of Building Permit

1. Provide to the undersigned Land Use Planner a signed and recorded covenant of equitable servitude in a form acceptable to DPD. (Non-appealable code requirement for artist studio dwelling units.)

Signature: (signature on file) Date: September 2, 2004
Scott Kemp, Senior Land Use Planner
Department of Planning and Development